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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/530,218

09/29/2005

Wolfgang Markus

23246

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03/30/2009

K.F. ROSS P.C.

5683 RIVERDALE AVENUE

SUITE 203 BOX 900

BRONX, NY 10471-0900

EXAMINER

LE, MARK T

ART UNIT

PAPER NUMBER

3617

MAIL DATE

DELIVERY MODE

03/30/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/530,218	<b>Applicant(s)</b> MARKUS, WOLFGANG	
	<b>Examiner</b> MARK T. LE	<b>Art Unit</b> 3617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 10 March 2009.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 30-36 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 30-36 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 February 2009 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

### DETAILED ACTION

1. This communication is responsive to the RCE filed on March 10, 2009.

Applicant's amendments and remarks have been carefully considered.

2. The disclosure is objected to because of the following problems:

Reference numeral 15 at certain parts in the specification is referred to as standard or conventional connecting means (15), and at other parts of the specification is referred to as ribbed plate (15) or rail fastening and rail support (15) or rail fastening points (15).

Reference numerals 11 and 12 at certain places in the specification are referred to as the steel piles, at other places are referred to as concrete piles, and at certain further other places the reference numeral 12 is referred to as steel girders.

Such inconsistencies are confusing. Proper correction is required.

3. In the specification, page 14, line 24, it is not clear as to what is meant by the word "ca.".

In the specification, page 13, line 7, "sleeper frame s 2" is a typo.

Correction is required.

4. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

5. Claims 30-36 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to

one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The specific steps in the specific order recited in the instant claims are not fully supported by the originally filed disclosure. Note for example, there is no support for setting the steel girders in the grown soil before injecting concrete piles, as recited in instant claim 30; there is no support for injecting concrete around the piles to form longitudinally extending row of concrete piles, as recited in instant claim 30; there is no support for curing the piles after the steel girders are inserted or set in positions, as recited in instant claim 30; there is no support for placing the sleeper frames on top of the girders after the concrete piles cured, as recited in instant claim 30; there is no support for fixing steel supports in the concrete piles, as recited in instant claim 31; there is no support for filling the ballast after positioning the sleeper frames, as recited in instant claim 33; there is no support for mass producing the sleeper frames, and for producing the sleeper frames off-site before the piles are formed, as recited in instant claim 34; there is no support for positioning the beams atop of the concrete piles, as recited in instant claim 35; and there is no support for the specific step recited in instant claim 36 and that occurs at the specific timeframe as claimed.

Note that the above list of non-supported claimed features may not exhaustive. Applicant is suggested to revise or rewrite the instant claims; wherein, all of the instant claimed steps and the instant claimed sequence of the steps must be clearly supported by the originally filed disclosures. However, if Applicant disagrees with the examiner's finding as to the lacking of supports, in the originally filed disclosure, for the instant

claimed method steps as recited in the instant claims, Applicant is suggested to clearly point out the corresponding steps including the sequence of steps that can be found in the originally filed disclosure.

6. Claims 30-36 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 30, lines 4-6, the expression "injecting concrete into the ground under high pressure around the piles to form a longitudinally extending row of concrete piles" is not clear. This expression appears to suggest that the injecting concrete, the piles, and the girders are different elements of the instant claimed invention. Further, note that in line 5, the expression "the piles" lacks antecedent basis.

Claims 31-36 are indefinite because they depend from cancelled base claim 28.

7. As best understood, Claims 31-36 may have been intended to depend either directly or indirectly from claim 30, instead of claim 28; therefore, claims 31-36 are currently presumed to depend either directly or indirectly from claim 30.

8. Claims 30-36 appear to define combinations of method steps that are not taught by the prior art of record.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to whose telephone number is (571)272-6682. The examiner can normally be reached on Mon-Fri, between 8:15-4:45 (Teleworking).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Samuel Morano can be reached on 571-272-6684. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Mark Le/  
Primary Examiner  
Art Unit 3617

mle  
3/25/09